REMARKS

In light of the following remarks, reconsideration of the present application is requested. Claims 1-28 are pending in this application. Claims 1, 4-5 and 11-16 have been amended. Claims 1, 11, 17 and 23 are independent claims. Support for the amended claims can be found in paragraphs [0058] to [0059], for example. Claims 17-28 are new. No new matter has been added.

Priority

Applicants appreciate the Examiner's acknowledgement of Applicants' claim for foreign priority and the indication that all certified copies of all priority documents have been received.

Drawings

Applicants also respectfully note the present action indicates that the drawings have been accepted by the Examiner.

Rejections under 35 U.S.C. § 101

Claims 11-16 stand rejected under 35 U.S.C. § 101 as being directed to non-functional descriptive material. In accordance with the Examiner's suggestion, claim 11 has been amended to recite a "computer-readable medium."

The Manual of Patent Examining Procedure (MPEP) provides guidance on the difference between "nonfunctional descriptive material" and "functional descriptive material." In particular, MPEP § 2106.01 states the following.

In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited music, literary works and a compilation or mere arrangement of data.

Accordingly, Applicants respectfully submit that a "computer-readable medium including a data stream for managing multiple reproduction paths" as recited in independent claim 11 is a recording medium storing functional descriptive material.

MPEP §2106.01(I) further states, regarding functional descriptive material, that "a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." Accordingly, because the computer-readable medium recited in claim 11 includes a data stream having a section which prohibits reproduction path re-change after reproduction path change, claim 11 is clearly directed towards patentable, statutory subject matter.

In light of the above, Applicants respectfully request that the rejection of independent claim 11, and claims depending therefrom, under 35 U.S.C. § 101 be withdrawn.

Rejections under 35 U.S.C. § 102

Claims 1-9 and 11-16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Yamane et al (U.S. Patent No. 5,784,528). Applicants respectfully traverse this rejection for the reasons detailed below.

Claim 1

Claim 1 requires, *inter alia*, a data stream section that is a "section which prohibits reproduction path re-change after reproduction path change, based on a buffering condition." This feature is not disclosed or suggested in Yamane et al.

Yamane et al. discloses a method and an apparatus for interleaving a bit stream wherein split data units for a defined volume of data for each scene are distributed at an appropriate level, to prevent a data underflow state. The split data units having a size sufficient for buffering to a track buffer are called "interleave units" and the interleave units after interleaving are called "interleaved units." When one scene is selected from plural scenes, interleave units are required for plural video objects (VOBs) composing plural scenes. Two interleaved units ILVU belonging to a selected scene are separated by one or more interleaved units ILVU belonging to another scene.

The Examiner relies upon the interleaving of Yamane et al. to teach "assigning an additional bit rate to a data stream section such that a total bit rate (TBR) of the data stream section is not lower than said minimum bit rate," of claim 1. However, Yamane et al. does not disclose or suggest that the split data units prohibit reproduction path re-change based on a buffering condition. Applicants have hereby amended claim 1 to clarify the distinctions over Yamane et al. As Yamane et al. discusses nothing about prohibiting reproduction path re-change after reproduction path change based on a buffering condition, Yamane et al. does not disclose "a section which prohibits path re-change after reproduction path change, based on a buffering condition," as set forth in claim 1. Therefore, claim 1 is patentable. Furthermore, the claims dependent on claim 1 are patentable for at least the reasons discussed above in regards to claim 1 and, therefore, are patentable for at least somewhat similar reasons as claim 1.

Claim 11 and its dependent claims are patentable for at least somewhat similar reasons as set forth above regarding claim 1.

Therefore, Applicants respectfully request that the rejections of these claims be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamane et al. in view of Fujiwara et al. (U.S. Pat. No. 6,683,989). Applicants respectfully traverse this rejection for the reasons detailed below.

The Examiner correctly acknowledges that the features of claim 10 are absent from Yamane et al. but alleges that these features are taught by Fujiwara et al., thereby rendering claim 10 obvious to one of ordinary skill at the time of the invention. Even assuming *arguendo* that the features of claim 10 are taught by Fujiwara et al. (which Applicants do not admit) and that Fujiwara et al. could be properly combined with Yamane et al. (which Applicants do not admit), Yamane et al. and Fujiwara et al. are still deficient with respect to the above-described features of claim 1. Thus, even in combination, Yamane et al. and Fujiwara et al. fail to render claim 10 obvious.

Therefore, Applicants respectfully request that the rejection of Claim 10 under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicants hereby petitions for a three (3) month extension of time for filing a reply to the outstanding Office Action and submit the required $1050.00 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By _____

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